

IV. REMARKS

Status of the Claims

Claim 1 is amended to clarify the invention for which protection is sought in this application. Claim 11 is added to more particularly define the invention. Claims 1-11 are submitted for further consideration.

Summary of the Office Action

Claims 1-5 and 7-10 stand rejected under 35USC102(b) on the basis of the cited reference Hieda, U.S. Patent No. 5,307,159. Claim 6 stands rejected under 35USC103(a) on the basis of the cited reference Hieda, in view of the teaching of Juenger, U.S. Patent No. 5,778,106. The Examiner is respectfully requested to reconsider his rejection in view of the following remarks.

Discussion of the Cited References

The Examiner relies primarily on the disclosure of the reference Hieda to support the rejections based on anticipation and obviousness. The Examiner characterizes the reference Hieda as follows:

"... the Hieda reference discloses an image sensor having an array of image sensors and a filter structure disposed in relation to the image sensors, the filter structure comprising blocks of filter groups, each group having a combination of one or more areas adapted so as to allow light to pass there through onto corresponding areas so as to allow light to pass there through onto corresponding image sensors without color filtering."

The reference Hieda describes its filter arrangement at column 2, lines 44-48, as follows:

"A color mosaic filter consists of, as shown in FIG. 2(a), filters W which allow all the color components (predetermined color components) of light to pass, filters which are for red(R) and filters which are for blue(B).

The invention, as now described in claim 1 as amended and new claim 11, requires that at least half of the sensor area receives unfiltered light through an aperture window. This is not disclosed in the cited reference Hieda. The reference Hieda therefore has deficiencies beyond those indicated by the Examiner. With respect to claim 6, such deficiencies are not remedied by the teachings of the reference Juenger.

The Issue of Anticipation

It is well settled that a claim is anticipated, "only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." (See CHISOLM, Federal Circuit Guide, Pg. 1221).

"...it must be shown that the reference contains all of the elements of the claims apart from irrelevant or merely extraneous variations, and the elements are arranged in the same way to achieve the same result which is asserted to be an inventive function..." 454 U.S. 1129 (1981)

The elements of the claim and their function and purpose within the claim must be reviewed in a manner similar to an infringement analysis. If the device described in the cited reference would not infringe if it was later, it will not anticipate if the reference is earlier.

Applying this standard to the device of the reference Hieda it becomes clear that it is missing significant elements of independent claims 1 and 11. There is no provision in the system of Hieda for applying light to the sensor array through apertured windows without intervening filters. Claim 1 states:

"one or more areas comprising apertured windows adapted so as to allow light to pass therethrough onto corresponding image sensors without colour filtering wherein said apertured windows occupy substantially half of the filter space in a block of the filter structure."

Equivalent language is contained in claim 11. Since these elements form no part of the system of Heida, there would be no infringement, if Heida was later, therefore, the cited reference does not support the rejection by the Examiner based on anticipation.

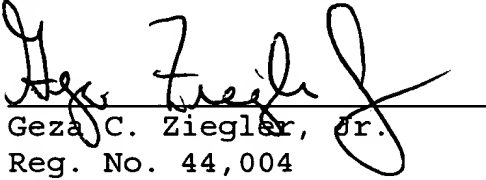
The above arguments are equally applicable to the rejected dependent claims 2-10.

As discussed above, Applicant submits that the rejection based on obviousness is unsupported in view of the deficiencies of the reference Hieda.

In view of the remarks stated above, Applicant submits that all of the claims under consideration contain patentable subject matter and favorable action by the Examiner is respectfully requested. Should any unresolved issues remain, the Examiner is invited to call Applicants' attorney at the telephone number indicated below.

The Commissioner is hereby authorized to charge payment for any fees associated with this communication or credit any over payment to Deposit Account No. 16-1350.

Respectfully submitted,


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